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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/599,359

05/29/2007

Paul C. Burke

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7590

09/24/2009

IP Advisors

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EXAMINER

LE, MARK T

ART UNIT

PAPER NUMBER

3617

MAIL DATE

DELIVERY MODE

09/24/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/599,359	Applicant(s) BURKE ET AL.	
	Examiner MARK T. LE	Art Unit 3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 July 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,5-7 and 9-24 is/are pending in the application.
- 4a) Of the above claim(s) 9-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 5-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This communication is responsive to the amendments filed on July 20, 2009.

Applicant's amendments and remarks have been carefully considered.

2. Newly submitted claims 9-24 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Inventions - Group I, defined by new claims 9-24; and Group II, the originally invention recited in claims 1, 3 and 5-7 - are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination, e.g. claims 9, 10, 14, 15, 16, 17, 18, 21, 23 and 24, focuses on the structural relationship between the cable routing system and the seat arrangement of an aircraft to define the instant claimed invention for patentability. The subcombination has separate utility such as an apparatus for connecting laptop computer to a communication network.

Since applicant has received an action on the merits for the originally presented invention, which is Group II, claims 1, 3 and 5-7, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 9-24 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Art Unit: 3617

3. The abstract of the disclosure is objected to because phrases or words that can be implied, such as "... are disclosed", and "a disclosed cabling system", should be avoided. Correction is required. See MPEP § 608.01(b). Applicant's argument directed to this issue is not considered persuasive. See MPEP § 608.01(b), the last paragraph of section C - Language and Format.

4. Claims 1, 3 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Lee (US 2003/0042097).

Lee discloses a cable assembly having all the features as recited in the instant claims, including cable 18, first and second connectors 34, 42, cable storage unit 14 in the form of housing 26, and reel 22.

Regarding the instant claimed intended uses as recited in the instant claims, note that since the cable assembly of Lee is capable of the instant claimed intended uses, the instant claimed intended use limitations are considered met.

5. Claim 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (US 2003/0042097).

Lee is applied above.

Regarding the instant claimed types of connectors, or types of cables, as recited in instant claims 5 and 6, note that DIN or RCA connectors and Ethernet conductors, or braided film coated wires which is known as Litz wires, are well known types of connectors and cables for use with well known electronic devices and/or computers (Official Notice is taken). Accordingly, it would have been obvious to one skilled in the art to substitute well known types of connectors and/or cable, such as the well known

Art Unit: 3617

DIN or RCA connectors, or Ethernet conductors for the connectors and/or cable of Lee's structure so that the cable reel assembly of Lee may be used with other commercially available electronic devices and/or computers that would require such well known types of connectors and/or cable.

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7. Claims 1, 3 and 5-7 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over the claims of any one of U.S. Patent No. 6,578,683, No. 6,386,906, No. 6,799,994, and No. 7,108,216. Although the conflicting claims are not identical, they are not patentably distinct from each other because they direct to the cable assemblies having similar features. As to the instant claimed intended use limitations defined in the instant application claims, they are not considered to set forth positive structural distinctions over the cable assemblies defined

Art Unit: 3617

in the claims of the patents. As to the instant claimed housing portion, DIN connector, RCA connector, Ethernet conductor and braided film coated wires which is known as Litz wires, they are well known features of connection cables or cable assemblies for use with various commercially available electronic devices (Official Notice is taken); therefore, it would have been obvious to one skilled in the art to include one or more of such well known features in the cable assemblies defined in the claims of the patents so as to achieve the expected advantages or uses thereof.

8. Applicant's arguments have been carefully considered; however, as stated previously, since the cable assembly of Lee is capable of the instant claimed intended uses, the instant claimed intended use limitations are considered met. Note that the instant claimed invention is a cable routing system and as defined in instant claims 1, 3 and 5-7, this cable routing system is intended for use in a seat arrangement of a passenger vehicle, such as an aircraft. Such intended use does not carry patentable weight because it does not positively define the instant claimed cable routing system over the prior art structure of Lee, which is considered to be capable of being used in the manner as recited in the instant claims.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

Art Unit: 3617

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARK T. LE whose telephone number is (571)272-6682. The examiner can normally be reached on Mon-Fri, between 8:15-4:45 (Teleworking).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mark Le/
Primary Examiner
Art Unit 3617

Application/Control Number: 10/599,359

Page 7

Art Unit: 3617

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